



west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, WV 25304
Phone: (304) 926-0470
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Harold D. Ward, Cabinet Secretary
dep.wv.gov

**CONSENT ORDER
ISSUED UNDER THE
WATER POLLUTION CONTROL ACT
WEST VIRGINIA CODE CHAPTER 22, ARTICLE 11**

TO: Rameys Enterprise LLC
DBA Rameys Used Auto Parts
Clifford Ramey
P.O. Box 65
Bunker Hill, WV 25413

DATE: March 11, 2022

ORDER NO.: 10013

INTRODUCTION

This Consent Order is issued by the Director of the Division of Water and Waste Management (hereinafter "Director"), under the authority of West Virginia Code 22-11-1 et seq. to Rameys Enterprise LLC DBA Rameys Used Auto Parts (hereinafter "Ramey").

FINDINGS OF FACT

In support of this Order, the Director hereby finds the following:

1. Ramey operates a salvage yard located near Bunker Hill, Berkeley County, West Virginia. Ramey was issued WV/NPDES Water Pollution Control Permit No. WV0111457, Registration No. WVG611797, on September 14, 2016, and the WV/NPDES permit was reissued on May 1, 2020.
2. On May 26, 2020, West Virginia Department of Environmental Protection (WVDEP) personnel conducted an inspection of the facility in response to a complaint. During the inspection, a violation of the following section of the WV/NPDES permit was observed and documented:
 - a. Section B.19 - Ramey failed to properly implement its Stormwater Pollution Prevention Plan (SWPPP) and Groundwater Protection Plan (GPP). Specifically, Ramey did not provide employee training for proper processing of vehicles entering the salvage yard, cleaning up spillage, and maintaining good housekeeping practices. There were several stained areas of petroleum spillage

Promoting a healthy environment.

on the ground due to vehicles being tipped to remove parts. However, the SWPPP/GPP states that all fluids should be pre-drained from vehicles.

As a result of the aforementioned violations, Notice of Violation (NOV) No. w20-02-046-mkk was issued to Ramey.

3. On July 19, 2021, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the WV/NPDES permit were observed and documented:
 - a. Section B.19 - Ramey did not perform training or inspections as required by the SWPPP. Specifically, facility records indicated that training/inspection had not occurred since 2018.
 - b. Appendix A.II.1 – Ramey failed to properly operate and maintain the facility. Specifically, there was solid waste throughout the site, and there were petroleum spills on the ground.
 - c. Appendix A.IV.2 – Ramey did not immediately report a petroleum spill which could have endangered the environment. Specifically, spillage on the ground around the crusher was never reported to the WVDEP Spill Line.

As a result of the aforementioned violations, NOV No. w21-02-082-mkk was issued to Ramey.

4. On October 26, 2021, WVDEP personnel conducted a review of facility records from the time period of October 1, 2019 through September 30, 2021. During this review, WVDEP personnel determined that Ramey submitted Discharge Monitoring Reports (DMRs) for March 2020, June 2020, and September 2020. However, December 2019, December 2020, March 2021, June 2021, and September 2021 DMRs were not submitted electronically. In 2021, the required water samples were submitted to a laboratory, which lost its laboratory certification. Failure to electronically submit DMRs within the required timeframe is a violation of WV/NPDES Permit Appendix A.III.2.
5. On December 15, 2021, WVDEP personnel and Mr. Ramey met to discuss the terms and conditions of this Order.

ORDER FOR COMPLIANCE

Now, therefore, in accordance with West Virginia State Code 22-11-1 et seq., it is hereby agreed between the parties, and ORDERED by the Director:

1. Ramey shall immediately take all measures to initiate compliance with all terms and conditions of its WV/NPDES permit.
2. Within thirty (30) days of the effective date of this Order, Ramey shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when Ramey will achieve compliance with all terms and conditions of its WV/NPDES permit. The plan of corrective action shall include, but not be limited to, provisions for providing proof of proper disposal of the aforementioned

petroleum contaminated soil, delineating the extent of contamination at the site, properly remediating all identified contaminated areas, and providing a completion report which includes the results of confirmation samples. The plan of corrective action shall make reference to WV/NPDES Permit No. WV0111457, Registration No. WVG611797, and Order No. 10013. The plan of corrective action shall be submitted to:

**Chief Inspector
Environmental Enforcement - Mail Code #031328
WVDEP
601 57th Street SE
Charleston, WV 25304**

Upon approval, the plan of corrective action and schedule shall be incorporated into and become part of this Order, as if fully set forth herein. Failure to submit an approvable plan of corrective action and schedule or failure to adhere to the approved schedule is a violation of this Order.

3. Because of Ramey's permit violations, Ramey shall be assessed a civil administrative penalty of seven thousand four hundred thirty dollars (\$7,430) to be paid to the West Virginia Department of Environmental Protection for deposit in the Water Quality Management Fund within thirty (30) days of the effective date of this Order. Payments made pursuant to this paragraph are not tax-deductible for purposes of State or federal law. Payment shall include a reference to the Order No. and shall be mailed to:

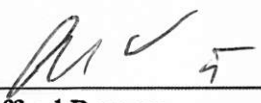
**Chief Inspector
Environmental Enforcement - Mail Code #031328
WV-DEP
601 57th Street SE
Charleston, WV 25304**

OTHER PROVISIONS

1. Ramey hereby waives its right to appeal this Order under the provisions of West Virginia State Code 22-11-21. Under this Order, Ramey agrees to take all actions required by the terms and conditions of this Order and consents to and will not contest the Director's jurisdiction regarding this Order. However, Ramey does not admit to any factual and legal determinations made by the Director and reserves all rights and defenses available regarding liability or responsibility in any proceedings regarding Ramey other than proceedings, administrative or civil, to enforce this Order.
2. The Director reserves the right to take further action if compliance with the terms and conditions of this Order does not adequately address the violations noted herein and reserves all rights and defenses which he may have pursuant to any legal authority, as well as the right to raise, as a basis for supporting such legal authority or defenses, facts other than those contained in the Findings of Fact.
3. If any event occurs which causes delay in the achievement of the requirements of this Order, Ramey shall have the burden of proving that the delay was caused by

circumstances beyond its reasonable control which could not have been overcome by due diligence (i.e., force majeure). Force majeure shall not include delays caused or contributed to by the lack of sufficient funding. Within three (3) working days after Ramey becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and Ramey shall, within ten (10) working days of initial notification, submit a detailed written explanation of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and a timetable by which Ramey intends to implement these measures. If the Director agrees that the delay has been or will be caused by circumstances beyond the reasonable control of Ramey (i.e., force majeure), the time for performance hereunder shall be extended for a period of time equal to the delay resulting from such circumstances. A force majeure amendment granted by the Director shall be considered a binding extension of this Order and of the requirements herein. The determination of the Director shall be final and not subject to appeal.

4. Compliance with the terms and conditions of this Order shall not in any way be construed as relieving Ramey of the obligation to comply with any applicable law, permit, other order, or any other requirement otherwise applicable. Violations of the terms and conditions of this Order may subject Ramey to additional penalties and injunctive relief in accordance with the applicable law.
5. The provisions of this Order are severable and should a court or board of competent jurisdiction declare any provisions to be invalid or unenforceable, all other provisions shall remain in full force and effect.
6. This Order is binding on Ramey, its successors and assigns.
7. This Order shall terminate upon Ramey's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.



Clifford Ramey
Rameys Enterprise LLC DBA Rameys Used Auto Parts

5-12-22

Date

Public Notice begin:

Date

Public Notice end:

Date

Katheryn Emery, P.E., Director
Division of Water and Waste Management

Date

PHOTO LOG 7/19/21



Spillage on the ground around the crusher



Staining on the ground

EMPLOYEE TRAINING RECORD

The following employees were trained on the contents and procedures associated with this Pollution Prevention Plan and their individual responsibilities with regard to pollution prevention.

Date	Employee Name	Employee Initials
10-12-18	Chris Kidwell	CKH
10-17-18	Travis Shubbs	TLS
10-17-18	Dorrick Redman	DAL

QUARTERLY INSPECTION RECORD

Inspector: <u>Clifford Ramsey</u> Date: <u>10-17-18</u>			Inspection Item
Yes	No	N/A	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Engineering controls, including dikes, berms, secondary containment structures, and ditches are in good condition.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Aboveground Storage Tanks (ASTs) in good condition, no leaks are evident.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	55-gallon drums are clearly labelled, closed when not in use and provided with secondary containment if stored outdoors.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Sediment ditches and retention structures are free of accumulated sediment.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Wastes are in proper containers and all facility areas are free of litter.
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	There is no evidence of, or observable potential for, pollutants entering the drainage system in materials handling areas.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Any spills or leaks over the last quarter have been properly cleaned-up.

If you answered "No" to any question, provide an explanation: litter around
Dismantling Box's parts trash etc. hanging around

ANNUAL INSPECTION RECORD

Inspector: <u>Clifford Ramsey</u> Date: <u>10-17-18</u>			Inspection Item
Yes	No		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The description of the potential pollutant sources accurate.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The site map reflects current site conditions.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The controls described in the plan to reduce the potential for pollution of groundwater are being implemented and are adequate.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Quarterly Inspection reports are current and in the plan.

7/19/21, 1:44 PM

Inspection and training records dated in 2018



Waste tires disposed of in the tree line.



Solid waste scattered over yard



Unlabeled drums of oil



Petroleum spillage near crusher



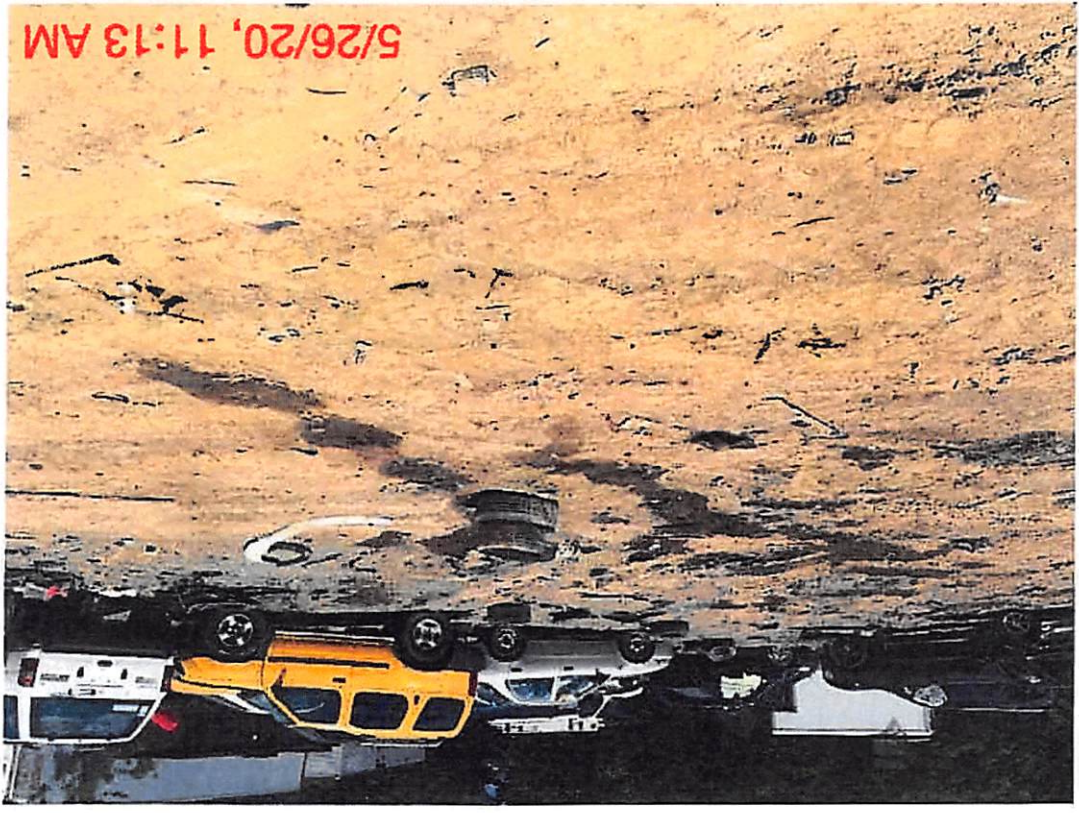
Unlabeled drums of oil



Petroleum spillage near crusher

Spillage

5/26/20, 11:13 AM

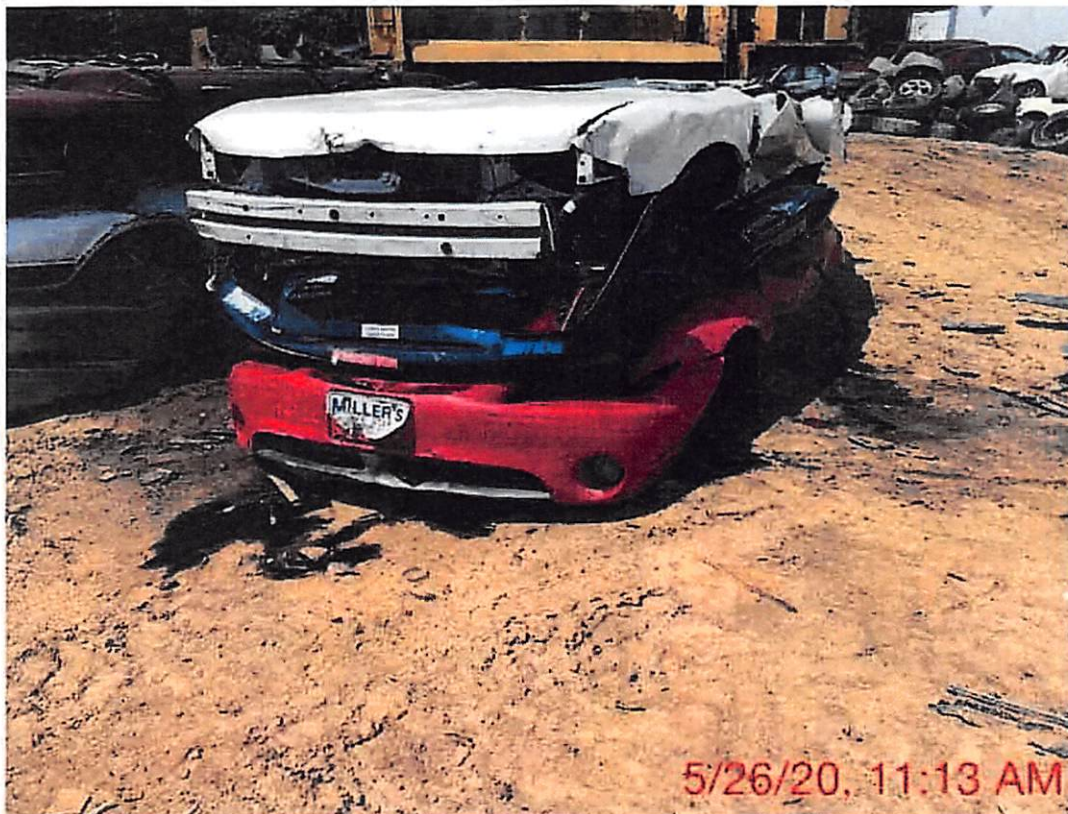


Spillage

5/26/20, 11:11 AM



PHOTO LOG 5/26/20



Spillage



Fluids flowing over the crusher pad

Base Penalty Calculation

(pursuant to 47CSR1-6.1)

Responsible Party: Rameys Enterprise LLC
DBA Rameys Used Auto Parts Receiving Stream: _____

Treatment System Design Maximum Flow: _____ MGD

Treatment System Actual Average Flow: _____ MGD (if known)

Enter FOF# and rate each finding as to Potential and Extent.

1)	Potential for Harm Factor	Factor Range	FOF#											
			2a	3a	3b	3c								
a)	Amount of Pollutant Released	1 to 3	1	1	1	1								
b)	Toxicity of Pollutant	0 to 3	1	0	1	0								
c)	Sensitivity of the Environment	0 to 3	1	0	1	0								
d)	Length of Time	1 to 3	1	1	1	1								
e)	Actual Exposure and Effects thereon	0 to 3	1	0	1	0								
	Average Potential for Harm Factor		1	0.4	1	0.4	No	No	No	No	No	No	No	No
2)	Extent of Deviation Factor	Factor Range												
	Degree of Non-Compliance	1 to 3	3	3	3	3								

Potential for Harm Factors:

- 1)c - Sensitivity of the Environment Potentially Affected (0 for "dead" stream)
- 1)d - Length of Time of Violation
- 1)e - Actual Human/Environmental Exposure and Resulting Effects thereon

Examples/Guidance:

Note: Rate as 1 for Minor, 2 for Moderate and 3 for Major. Rate as 0 if it does not apply.

Minor = exceedance of permit limit by $\leq 40\%$ for Avg. Monthly or $\leq 100\%$ for Daily Max., exceed numeric WQ standard by $\leq 100\%$, or report doesn't contain some minor information.

Moderate = exceedance of permit limit by $\geq 41\%$ and $\leq 300\%$ for Avg. Monthly, $\geq 101\%$ and $\leq 600\%$ for Daily Max., exceed numeric WQ standard by $\geq 101\%$ and $\leq 600\%$ or report doesn't fully address intended subject matter.

Major = exceedance of permit limit by $\geq 301\%$ for Avg. Monthly, $\geq 601\%$ for Daily Max., exceed numeric WQ standard by $\geq 601\%$, failure to submit a report, failure to obtain a permit, failure to report a spill, etc. Note that a facility in SNC should be rated as major for length of time and degree of non-compliance.

Narrative WQ standard violations - case-by-case.

Continue rating Findings of Facts (FOF) here, if necessary. Otherwise, continue on Page 3.

[illegible]

		Extent of Deviation from Requirement		
		Major	Moderate	Minor
Potential for Harm to Human Health or the Environment	Major	\$8,000 to \$10,000	\$6,000 to \$8,000	\$5,000 to \$6,000
	Moderate	\$4,000 to \$5,000	\$3,000 to \$4,000	\$2,000 to \$3,000
	Minor	\$1,500 to \$2,000	\$1,000 to \$1,500	Up to \$1,000

FOF #	Potential for Harm	Extent of Deviation	Penalty	Multiple Factor	Base Penalty
2a	Minor	Major	\$2,000	1	\$2,000
3a	Minor	Major	\$1,700	1	\$1,700
3b	Minor	Major	\$2,000	1	\$2,000
3c	Minor	Major	\$1,700	1	\$1,700
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
Total Base Penalty					\$7,400

Penalty Adjustment Factors

(pursuant to 47CSR1-6.2)

Penalty Adjustment Factor

6.2.b.1 - Degree of or absence of willfulness and/or negligence - 0% to 30% increase

6.2.b.4 - Previous compliance/noncompliance history - 0% to 100% increase - based upon review of last three (3) years - Warning = maximum of 5% each, N.O.V. = maximum of 10% each, previous Order = maximum of 25% each - Consistent DMR violations for <1 year = 10% maximum, for >1 year but <2 years = 20% maximum, for >2 years but <3 years = 30% maximum, for >3 years = 40 % maximum

6.2.b.6 - Economic benefits derived by the responsible party (increase to be determined)

6.2.b.7 - Public Interest (increase to be determined)

6.2.b.8 - Loss of enjoyment of the environment (increase to be determined)

6.2.b.9 - Staff investigative costs (increase to be determined)

6.2.b.10 - Other factors

Size of Violator: 0 - 50% decrease

NOTE: This factor is not available to discharges that are causing a water quality violation. This factor does not apply to a commercial or industrial facility that employees or is part of a corporation that employees more than 100 individuals.

Avg. Daily WW Discharge Flow (gpd)	% Reduction Factor
< 5,000	50
5,000 to 9,999	40
10,000 to 19,999	30
20,000 to 29,999	20
30,000 to 39,999	10
40,000 to 99,999	5
> 100,000	0

Additional Other factors to be determined for increases or decreases on a case-by-case basis.

Public Notice Costs (cost for newspaper advertisement)

6.2.b.2 - Good Faith - 10% decrease to 10% increase

6.2.b.3 - Cooperation with the Secretary - 0% to 10% decrease

6.2.b.5 - Ability to pay a civil penalty - 0% to 100% decrease

Base Penalty Adjustments

(pursuant to 47CSR1-6.2)

Penalty Adjustment Factor	% Increase	% Decrease	Base Penalty Adjustments
6.2.b.1 - Willfulness and/or negligence -	10		\$740
6.2.b.4 - Compliance/noncompliance history -			\$0
6.2.b.6 - Economic benefits - (flat monetary increase)			\$0
6.2.b.7 - Public Interest - (flat monetary increase)			\$0
6.2.b.8 - Loss of enjoyment - (flat monetary increase)			\$0
6.2.b.9 - Investigative costs - (flat monetary increase)			\$0
6.2.b.10 - Other factors (size of violator)			\$0
6.2.b.10 - Additional Other Factors - Increase (flat monetary increase)			\$0
6.2.b.10 - Additional Other Factors - Decrease (flat monetary decrease)			\$0
Public Notice Costs (flat monetary increase)	\$30		\$30
6.2.b.2 - Good Faith - Increase			\$0
6.2.b.2 - Good Faith - Decrease			\$0
6.2.b.3 - Cooperation with the Secretary		10	(\$740)
6.2.b.5 - Ability to Pay			\$0
Penalty Adjustments			\$30
Penalty =			\$7,430

Estimated Economic Benefit Item	Estimated Benefit (\$)
Monitoring & Reporting	
Installation & Maintenance of Pollution Control Equipment	
O&M expenses and cost of equipment/materials needed for compliance	
Permit Application or Modification	
Competitive Advantage	
Estimated Economic Benefit	\$0
Comments: Economic benefit not warranted.	